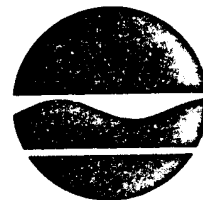


Exhibit 2

New York State Department of Environmental Conservation
50 Wolf Road, Albany, New York 12233



Robert F. Flacke
Commissioner

December 19, 1979

The Honorable Robert Abrams
Attorney General
State of New York Department of Law
The Capitol
Albany, New York 12224

Attention: Shirley Adelson Siegel
Solicitor General

Re: Tonawanda Coke Corp. v. Flacke

Dear Mr. Abrams:

The attached Notice and Petition were served personally upon Carl Dworkin, an attorney in the Office of the General Counsel of the Department of Environmental Conservation, earlier today.

If you would like further information about this matter, please contact Michael Green, the Departmental attorney with responsibility for matters relating to air. Mr. Green's telephone number is 457-6695.

Thank you for your assistance in this matter.

Very truly yours,

John Greenthal
Compliance Counsel

Enclosures
JG:pm

cc: James Sevinsky, Esq.
Michael Green, Esq. ✓
Peter Burke, Esq. ✓

STATE OF NEW YORK
SUPREME COURT : COUNTY OF ALBANY

In the Matter of

Tonawanda Coke Corporation

for an order pursuant to Article 78
of the Civil Practice Law and Rules

against

ROBERT F. FLACKE, Commissioner
of Environmental Conservation

PLEASE TAKE NOTICE that the annexed Petition will be heard
at a Special Term of the Supreme Court to be held in and for Albany
County at the Albany County Courthouse, Albany, New York, on the 8th
day of February, 1980, at 10:00 o'clock in the forenoon of that day,
or as soon thereafter as counsel can be heard.

Dated: December 17, 1979
Buffalo, New York

Yours, etc.,

HODGSON, RUSS, ANDREWS, WOODS & GOODYEAR
(Stephen H. Kelly, Esq., of counsel)
Attorneys for Tonawanda Coke Corporation
Office and Post Office Address
1800 One M & T Plaza
Buffalo, New York 14203
Telephone: (716) 856-4000

TO: Commissioner of Environmental
Conservation
50 Wolf Road
Albany, New York 12233

Robert Abrams, Esq.
Attorney General
Department of Law
135 Washington Avenue
Albany, New York 12224

STATE OF NEW YORK
SUPREME COURT : COUNTY OF ALBANY

In the Matter of

Tonawanda Coke Corporation

for an order pursuant to Article 78
of the Civil Practice Law and Rules

Petition

against

ROBERT F. FLACKE, Commissioner
of Environmental Conservation

The petitioner, by Hodgson, Russ, Andrews, Woods & Goodyear,
its attorneys, for its Petition alleges, upon information and belief:

FIRST: Petitioner is and at all times hereinafter mentioned
was a domestic corporation operating a foundry coke battery on River Road
in the Town of Tonawanda, Erie County, New York.

SECOND: The respondent is and at all times hereinafter
mentioned was the duly appointed and acting Commissioner of Environmental
Conservation of the State of New York.

THIRD: The area in which petitioner's foundry coke battery is
located is an attainment area for both primary and secondary particulate
standards adopted by the Environmental Protection Agency pursuant to the
terms of the Clean Air Act (42 U.S.C. 7401 et seq.).

FOURTH: Heretofore and prior to the 23rd day of August, 1979
the respondent undertook revision of the appropriate portions of the
rules and regulations of the State of New York as required by the 1977
amendments to the Clean Air Act (Public Law 95-95).

FIFTH: The 1977 amendments to the Clean Air Act required revisions to the rules and regulations of the State of New York by reason of the fact that portions of New York State were "nonattainment" areas and did not comply with the primary and secondary standards for particulates as established by the Environmental Protection Agency pursuant to the Clean Air Act.

SIXTH: Heretofore and on or about the 23rd day of August, 1979, as part of the revision of the rules and regulations of the State of New York required by the 1977 amendments to the Clean Air Act, the respondent adopted and promulgated 6 NYCRR Part 214 which governs, among other things, particulate emissions from coke oven batteries in the State of New York.

SEVENTH: That 6 NYCRR Part 214 as adopted and promulgated on August 23, 1979, and as applied to the petitioner, is unreasonable, arbitrary, discriminatory and contrary to law in that, among other things:

A. It applies to coke oven batteries located in attainment areas, such as the petitioner, without regard to need, economic justification, or any other rational basis in fact;

B. It applies to foundry coke batteries such as that operated by the petitioner together with blast furnace coke batteries operated by others in the State of New York and imposes on the petitioner standards, obligations and requirements allegedly designed for and allegedly appropriate

- 3 -

to blast furnace coke batteries and which are,
as applied to foundry coke batteries, unreasonable,
arbitrary and without justification in law; and

C. Imposes on the petitioner standards,
obligations and requirements which are unreasonable,
arbitrary, unrelated to any substantial government
purpose and with which the petitioner cannot comply
without unreasonable expense.

EIGHTH: No previous application has been made by the
petitioner for the relief herein requested.

WHEREFORE, the petitioner demands judgment declaring 6 NYCRR
Part 214 as adopted August 23, 1979 invalid and of no effect as applied
to the petitioner and granting such other and further relief as to the
Court may seem just and proper.

Dated: December 17, 1979
Buffalo, New York

Yours, etc.,

HODGSON, RUSS, ANDREWS, WOODS & GOODYEAR
(Stephen H. Kelly, Esq., of counsel)
Attorneys for Tonawanda Coke Corporation
Office and Post Office Address:
1800 One M & T Plaza
Buffalo, New York 14203
Telephone: (716) 856-4000

RECEIVED
JAN 5 1000
D.E.C. R.L.S. 9
LEGAL SERVICES